

U.S. Department of Justice



*United States Attorney
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April 6, 2022

BY ECF

Hon. Edgardo Ramos
United States District Judge
United States Courthouse
40 Foley Square
New York, New York 10007

Re: *ACLU et al. v. Customs and Border Protection et al.*, 21 Civ. 10430 (ER)

Dear Judge Ramos:

This Office represents the defendant agencies in the above-referenced action brought under the Freedom of Information Act (“FOIA”). I write respectfully on behalf of all parties in advance of the initial telephonic conference scheduled for April 7, 2022, at 9:30 am. Because this is a FOIA action, we understand Local Civil Rule 16.1 to exempt the parties from the requirement of a mandatory scheduling order under Federal Rule of Civil Procedure 16(b). Moreover, the parties respectfully suggest that the traditional case management structure set forth in the Court’s template Civil Case Discovery Plan and Scheduling Order is not applicable in this case because we anticipate that this matter, like most FOIA actions, will be resolved, if necessary, on cross-motions for summary judgment without the need for discovery.

At issue in this case are two separate FOIA requests by plaintiffs (one of which was made to several agencies), as described in the complaint. Some of the agencies have completed their initial searches in response to the request and are now processing the documents they located, while others are now in the process of conducting their searches. The Government has given plaintiffs updates about the status of the agencies’ searches, and proposes that it provide periodic updates going forward to plaintiffs and the Court. The parties thus respectfully propose that they submit a joint letter to the Court every month, beginning May 9, 2022 (approximately one month after the initial conference), regarding the status of the agencies’ searches and processing, until the conclusion of all of the agencies’ productions. The parties’ first such letter will include proposed processing schedules and/or search timelines for each agency that has not completed its production by that time. The parties further suggest that, 30 days after the agencies complete their productions, the parties write to the Court jointly to indicate whether plaintiffs intend to challenge any of the agencies’ withholdings or searches, and if so, to identify the specific withholdings or searches to be challenged and propose a briefing schedule to resolve their dispute. While the agencies’ processing and productions are underway, the parties will discuss any issues raised or requests made by plaintiffs regarding the agencies’ searches and withholdings, but reserve the right to seek the Court’s assistance—whether as part of the monthly status updates or otherwise—if they are not able to resolve them informally.

We thank the Court for its consideration of this matter.

Respectfully,

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cc: Counsel for plaintiffs (by ECF)